

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

20 On June 3, the United States ("Plaintiff") filed its
21 opposition, ECF No. 39, to Julio Figueroa's ("Claimant") motion to
22 suppress, ECF No. 18. In its opposition, Plaintiff included a
23 cross-motion for summary judgment noticed for June 20, 2014. ECF
24 No. 39, at 1. On June 17, Claimant filed a notice with the Court
25 requesting clarification regarding the present procedural posture
26 and scheduling for Plaintiff's cross-motion, arguing that
27 Plaintiff's cross-motion is procedurally deficient. ECF No. 45.
28 Plaintiff disagrees, and filed its own notice requesting that the

1 Court direct Claimant's counsel to file his opposition to the
2 cross-motion prior to Claimant's counsel's overseas trip. ECF No.
3 46.

4 Claimant is right. Plaintiff's cross-motion is procedurally
5 deficient for two reasons. First, Plaintiff noticed the cross-
6 motion for a date impermissible under the Local Rules. See Civ.
7 L.R. 7-2(a) ("[A]ll motions must be . . . noticed . . . for hearing
8 not less than 35 days after filing of the motion.") (emphasis
9 added); see also Civ L.R. 56-1. The fact that Plaintiff's counsel
10 did not obtain a specific hearing date for the cross-motion and the
11 motion was not "set" for June 20, 2014 does not alter this
12 conclusion. ECF No. 46, at 2. Second, the cross-motion contains
13 several other technical deficiencies. See Civ. L.R. 7-2(b)(3),
14 (c); 7-4(a)(2).

15 Because the attempted cross-motion was not "duly noticed"
16 under Civil Local Rule 7-1(a)(1), it is not properly before the
17 Court and Claimant is under no obligation to respond. As a result,
18 the only pending motion in this matter is Claimant's motion to

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1 suppress, ECF No. 18. If the United States wishes to pursue a
2 motion for summary judgment, it is instructed to refile in a manner
3 compliant with the local rules.¹

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5 IT IS SO ORDERED.

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7 Dated: June 30, 2014


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10 UNITED STATES DISTRICT JUDGE

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¹ The Court is aware that Plaintiff considers "the opposition [to
Claimant's motion to suppress] and the motion . . . factually and
legally intertwined," and that much of the brief is dedicated to
opposing the arguments Claimant raises in his motion to suppress.
ECF No. 46, at 2. This order is limited to clarifying the status
of Plaintiff's cross motion, and has no effect on the Court's
consideration of Plaintiff's brief as an opposition to the pending
motion to suppress. Nevertheless, in the future the Court will
strike portions of filings that do not adhere to the local rules.